

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC-SDNY  
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DATE FILED: 11/18/19

JOHN TSISMENTZOGLOU,

Plaintiff,

v.

MILOS ESTIATORIO INC., *et al.*,

Defendants.

No. 18-CV-9664 (RA)

ORDER

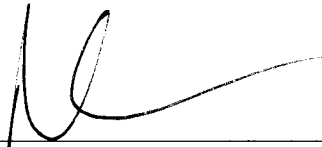
RONNIE ABRAMS, United States District Judge:

Plaintiff John Tsimentzoglou filed this action on October 19, 2018. Plaintiff subsequently filed a First Amended Complaint on August 2, 2019, and a Second Amended Complaint on August 5, 2019. On September 6, 2019, Defendants moved to dismiss. On September 23, 2019, the Court instructed Plaintiff to file any opposition papers to Defendants' motion no later than September 27, 2019. Plaintiff did not file any response. On October 22, 2019, the Court ordered Plaintiff to file, by October 29, 2019, either a response to Defendants' motion or a letter indicating that he does not intend to file a response. The Court informed Plaintiff that if he did not respond to its October 22nd Order, either by responding to Defendants' motion to dismiss or by submitting a letter indicating that he does not intend to do so, the Court may dismiss this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). Plaintiff did not file any response to the Court's October 22nd Order. On November 4, 2019, the Court again informed Plaintiff that if he did not file a response to its October 22nd Order, by November 11, 2019, it would dismiss this action for failure to prosecute pursuant to Rule 41(b). As of today's date, Plaintiff has not responded to the Court's October 22nd order, nor has he otherwise indicated that he intends to pursue this action.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a district court may dismiss an action if “the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order.” Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). Under Rule 41(b), a district court may dismiss an action *sua sponte* for failure to prosecute after notifying the plaintiff. *LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Because the Court has not received any response from Plaintiff, including any indication that he intends to pursue this case, the instant action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to terminate all pending motions and close the case.

SO ORDERED.

Dated: November 18, 2019  
New York, New York



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Ronnie Abrams  
United States District Judge